

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

In Re:

BARBARA S. LUSTIG,

CASE NO. 13-31273-KRH

CHAPTER 13

DEBTOR.

OBJECTION TO CONFIRMATION OF AMENDED CHAPTER 13 PLAN

NOTICE

YOUR RIGHTS MAY BE AFFECTED. YOU SHOULD READ THESE PAPERS CAREFULLY AND DISCUSS THEM WITH YOUR ATTORNEY, IF YOU HAVE ONE IN THIS BANKRUPTCY CASE. (IF YOU DO NOT HAVE AN ATTORNEY, YOU MAY WISH TO CONSULT ONE.)

IF YOU DO NOT WISH THE COURT TO SUSTAIN THE OBJECTION SOUGHT HEREIN, OR IF YOU WANT THE COURT TO CONSIDER YOUR VIEWS ON THE OBJECTION, THEN YOU MUST ATTEND THE HEARING ON THIS MATTER, OTHERWISE, THE COURT MAY DEEM OPPOSITION WAIVED, TREAT THE OBJECTION AS CONCEDED, AND ISSUE AN ORDER SUSTAINING THE OBJECTION WITHOUT FURTHER NOTICE OR HEARING.

THE HEARING IS SCHEDULED TO BE HELD ON APRIL 16, 2014 AT 9:10 A.M. AT THE U.S. BANKRUPTCY COURT, 701 EAST BROAD STREET, RICHMOND, VA 23219, IN COURTROOM NUMBER 5000.

COMES NOW, PNC Bank, National Association, by Counsel, and objects to the Confirmation of the Amended Chapter 13 Plan("Amended/Modified Plan") and in support thereof, represents unto the Court:

1. PNC Bank, National Association ("Secured Creditor") is a secured creditor of the debtor herein by virtue of the Note and accompanying Deed of Trust on the property located at 11817 Goodwick Square, Richmond, VA 23238.
2. The pre-petition arrearages due to Secured Creditor are \$19,840.13 as evidenced by the Proof of Claim timely filed on behalf of Secured Creditor on May 24, 2013.

3. The Debtor filed the Amended/Modified Plan on March 4, 2014 removing all pre-petition arrears due to Secured Creditor, hinging on an uncertain short sale of the subject property.

4. The Amended/Modified Plan is underfunded, as the arrearages owed to this Secured Creditor are understated, with the Amended/Modified Plan providing for no pre-petition arrearages.

5. Additionally, the Amended/Modified Plan proposes inconsistent treatment of PNC Bank, National Association's claim, listing the same in Sections 3C, 5A, and 11B of the plan, but then referring to this Creditor's claim with varying adequate protection payment amounts of \$1465.00 and \$1540.00.

6. Secured Creditor objects to the potential sale of the subject property as the proposal is overly vague, lacking mention of a proposed contract or price, and time certain by which the transaction will close. Secured Creditor also objects as the Amended/Modified Plan does not expressly state that the lien of Secured Creditor will be paid in full after the possible sale.

7. 11 U.S.C. §1325 (a)(5)(B)(ii) requires full payment of the allowed claim of this Secured Creditor. The Proof of Claim filed by this Secured Creditor establishes a total debt in the amount of \$243,134.46 upon which interest accrues at the rate of 6.375%. Accordingly, even if all payments are tendered pursuant to the Plan, they will not be sufficient to satisfy this Secured Creditor's claim in full. Thus, the Plan does not provide adequate protection of this Secured Creditor's interests as required by 11 U.S.C. §361, and does not meet the "feasibility" requirement of 11 U.S.C. §1325 (a)(6).

8. Any Chapter 13 Plan proposed by Debtor must provide for and eliminate the objections specified above in order to be feasible and to provide adequate protection to this objecting Secured Creditor. It is respectfully requested that this Court deny confirmation of the Amended/Modified Plan as proposed by Debtor.

9. Post-petition attorney's fees have been incurred for the preparation and filing of a Proof of Claim, and additionally \$400.00 for the preparation and filing of the Objection to Confirmation herein.

WHEREFORE, the undersigned requests as follows:

- (1) That confirmation of the proposed Amended/Modified Chapter 13 Plan be denied;
- (2) Debtor be required to modify the Plan to honor the terms and conditions of the Deed of Trust, and;
- (3) For such other relief as this Court deems proper.

PNC Bank, National Association

By: **/s/JOHNIE R. MUNCY**

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Objection was served by first class mail postage prepaid or email this 9th day of April, 2014 on all necessary parties including Robert E. Hyman, Trustee, P.O. Box 1780, Richmond, VA 23218-1780; Jason Meyer Krumbein, Counsel for Debtor, 5310 Markel Road Suite 102, Richmond, VA 23230; and Barbara S. Lustig, Debtor, 11817 Goodwick Square, Richmond, VA 23238.

/s/JOHNIE R. MUNCY

Samuel I. White, P. C.